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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,389	02/02/2000	Boris V. Marchegiani	33925-002	6138

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Alison L. McCarthy, Esq.
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3694

MAIL DATE	DELIVERY MODE
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11/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/496,389

Applicant(s)

MARCHEGANI, BORIS V.

Examiner

Ella Colbert

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-6, 8-11, 15, 17, 19-22, 24, 26, 28 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6, 8-11, 15, 17, 19-22, 24, 26, 28, and 35-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Claims 1, 4- 6, 8-11, 15, 17, 19-22, 24, 26, 28, and 35-40 are pending. Claims 1, 11, 15, 17, 26, and 35 have been amended in this communication filed 8/20/07 entered as Response After Non-Final and Request for Extension of Time.
2. The claim objections of claim 1, 11, 15, 17, 26, and 35 have been overcome by Applicant's amendment to the claims and are hereby withdrawn.
3. The Drawings objections to figures 1, 3A, 3B, 4A, and 4B are hereby withdrawn in view of Applicant having submitted replacement drawings on 11/09/06.
4. The Objection to the Specification has been overcome by Applicant's submission of pages 4 and 7 and is hereby withdrawn.
5. The 35 USC 112, second paragraph rejections for claims 1, 11, 15, 17, 26, and 35 have been overcome by Applicant's amendments to the claims and are hereby withdrawn.

6. ***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1, 4, 11, 15, 17, 19, 26, and 35 are rejected under 35 U.S.C. 102(a) as being anticipated by (US 2001/0032165) Friend et al, hereafter Friend.

As per claims 1, 11, 15, 17, 26, and 35, Friend teaches, a system for utilizing at least one tender, comprising:

a storage device for storing data which relates to the at least one term of the least one tender (page 4, col. 1, [0041-col. 2 [0043]]) and a processing device

transmitting information corresponding to the stored data, the processing device further receiving a request from the tender recipient to change at least one term of the at least one tender (page 3 [0036]-page 4, col. 1, line 3 and [0039] -col. 2 [0042]), wherein the term of the at least one tender that is changed relates to a physical characteristic of the complex multi-variable commodity (Page 7, col. 1 [0060] –col. 2, line 13).

As per claim 15, this independent claim is rejected for the similar rationale given above for claim 1.

As per claim 17, this independent claim is rejected for the similar rationale given above for claims 1 and 15.

As per claim 26, this independent claim is rejected for the similar rationale given above for claims 1, 15, and 17.

As per independent claim 35 this independent claim reciting “A set of instructions residing in a storage medium, the set of instructions capable of being executed by a processor to implement a method for utilizing at least one tender created by a tender initiator, wherein the at least one tender is provided for a complex multi-variable commodity including at least one term” is rejected for the similar rationale as given for claim 11 because the method steps of claim 11 correspond to the steps of claim 35. Claim 35 claims a set of instructions residing on a storage medium and claim 11 claims a method with corresponding steps.

As per claims 4 and 19, Friend teaches, the system according to claim 1, wherein the processing device executes a program on a remote device (page 2, col. 2. [0016]).

8. Claims 5, 6, 8, 9, 20-22, 24, 28, and 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 2001/0032165) Friend et al, hereafter Friend in view of (US 6,421,653) May.

As per claims 5 and 20, Friend discloses, wherein the storage device includes a database storing data which is related to the at least one tender (page 7, col. 1 [0059] – col. 2 [0062]).

As per claims 6 and 21, Friend failed to disclose, wherein the database is a relational database. May discloses, wherein the database is a relational database (col. 13, lines 32-34 and fig. 2 (66)). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Friend the teachings of May because such a modification would allow Friend to store information in tables- rows and columns of data- and to conduct searches using data in the specified columns of one table to find additional data in another table which is old and well known in the database art.

As per claims 8 and 22, Friend discloses, wherein the processing device: receives the data, analyzes the stored data, and transmits the information to a further processing device, wherein the information is transmitted in response to the received data (page 2, col. 1 [0012] -col. 2 [0013] and [0014] and page 4, col. 1 [0039] and [0040]).

As per claims 9, 23, and 28, Friend discloses, wherein the processing device at least one of transmits and receives the information electronically via the Internet (page 3, col. 1 [0032] and col. 2 [0037] –page 4, col. 1, line 3).

As per claims 10, 24, and 28, Friend discloses, wherein the processing device at least one of transmits and receives information electronically via a network of further processing devices (page 3, col. 1 [0032] and col. 2 [0037] –page 4, col. 1, line 3).

As per claims 36, 38, and 40, Friend discloses, further configured to enable the tender initiator to reject the exception (page 10, col. 2 [0083]).

As per claims 37 and 39, Friend discloses, further comprising: enabling the tender initiator to reject the exception (page 10, col. 2 [0083]).

Response to Arguments

Applicant's arguments with respect to claims 1, 4-6, 8-11, 15, 17, 19-22, 24, 26, 28, and 35-40 have been considered but are moot in view of the new ground(s) of rejection.

Inquiries


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Wednesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ELLA COLBERT
PRIMARY EXAMINER